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RECORDATION NO. 10041
TELEX
RCA 233663
WUI 620976

JAN 24 1979 -1 30 PM

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 10041/A
Filed 1425

JAN 24 1979 -1 30 PM

INTERSTATE COMMERCE COMMISSION

No. 9-0244629
Date JAN 24 1979

Fee \$100.00

ICC Washington, D. C.

RECORDATION NO. 10041/B
Filed 1425

JAN 24 1979 -1 30 PM

INTERSTATE COMMERCE COMMISSION January 22, 1979

RECORDATION NO. 10041/C
Filed 1425

JAN 24 1979 -1 30 PM

INTERSTATE COMMERCE COMMISSION

International Minerals & Chemical Corporation
Lease Financing Dated as of December 1, 1978
9.7% Conditional Sale Indebtedness
Due February 15, 1999

Dear Sir:

Pursuant to 49 U.S.C. § 11303(a), formerly Section 20c of the Interstate Commerce Act, I enclose herewith on behalf of International Minerals & Chemical Corporation for filing and recordation counterparts of the following documents:

1. (a) Conditional Sale Agreement dated as of December 1, 1978, between The Connecticut Bank and Trust Company, as Trustee, and Marine Industrie Limitee, as Builder;

(b) Agreement and Assignment dated as of December 1, 1978, between Marine Industrie Limitee, as Builder, and First Security Bank of Utah, N.A., as Agent;

2. (a) Lease of Railroad Equipment dated as of December 1, 1978, between International Minerals & Chemical Corporation and The Connecticut Bank and Trust Company, as Trustee; and

JAN 24 1979

RECEIVED

—C (b) Assignment of Lease and Agreement dated as of December 1, 1978, between The Connecticut Bank and Trust Company, as Trustee, and First Security Bank of Utah, N.A., as Agent.

The names and addresses of the parties to the aforementioned Agreements are as follows:

(1) Agent-Vendor-Assignee:

First Security Bank of Utah, N.A.
79 South Main Street
Salt Lake City, Utah 84111

(2) Trustee-Lessor-Vendee:

The Connecticut Bank and Trust Company
One Constitution Plaza
Hartford, Connecticut 06115

(3) Builder:

Marine Industrie Limitee
Tracy (Sorel)
Quebec,
CANADA

(4) Lessee:

International Minerals & Chemical Corporation
2315 Sanders Road
Northbrook, Illinois 60062

Please file and record the documents referred to in this letter and cross-index them under the names of the Agent-Vendor-Assignee, the Trustee-Lessor-Vendee, the Builder and the Lessee.

The equipment covered by the aforementioned documents consist of the following:

Six-hundred (600) one-hundred Ton Steel Covered Railroad Cars, 4,650 Cubic Feet each, with Trough-Type Hatch, AAR Mechanical Designation: AAR-LO, bearing identifying numbers IMCX12000 through IMCX12599, both inclusive.

There is also enclosed a check for \$100 payable to the Interstate Commerce Commission, representing the fee for recording the Conditional Sale Agreement and related Agreement and Assignment (together constituting one document) and the Lease of Railroad Equipment and related Assignment of Lease and Agreement (together constituting one document).

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish to retain one copy of the instruments for your files. It is requested that the remaining counterparts be delivered to the bearer of this letter.

Very truly yours,

Laurance V. Goodrich

Laurance V. Goodrich
As Agent for International
Minerals & Chemical Corporation

H. G. Homme, Jr., Esq.,
Secretary,
Interstate Commerce Commission,
Washington, D. C. 20423

Encls.

31

BY HAND

1004-A
RECORDATION NO. Filed 1425

JAN 24 1979 -1 30 PM

INTERSTATE COMMERCE COMMISSION

AGREEMENT AND ASSIGNMENT

Dated as of December 1, 1978

between

MARINE INDUSTRIE LIMITÉE,

and

FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION,
not in its individual capacity but solely as Agent

AGREEMENT AND ASSIGNMENT dated as of December 1, 1978, between each of MARINE INDUSTRIE LIMITEE (the "Builder") and FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, not in its individual capacity but solely as Agent under a Participation Agreement dated as of the date hereof (the "Assignee").

WHEREAS the Builder and THE CONNECTICUT BANK AND TRUST COMPANY, not in its individual capacity but solely as Trustee (the "Vendee"), under a Trust Agreement dated as of the date hereof with Bankers Trust Company (the "Beneficiary"), have entered into a Conditional Sale Agreement dated as of the date hereof (the "CSA") covering the construction, sale and delivery, on the conditions therein set forth, by the Builder and the purchase by the Vendee of the railroad equipment described in Annex B to the CSA (the "Equipment"); and

WHEREAS the Vendee and INTERNATIONAL MINERALS & CHEMICAL CORPORATION (the "Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease") providing for the lease to the Lessee of the Equipment;

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (this "Assignment") WITNESSETH: that in consideration of the sum of \$1 and other good and valuable consideration paid by the Assignee to the Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained, the parties hereto agree as follows:

SECTION 1. The Builder hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) all the right, title and interest of the Builder in and to each unit of the Equipment when and as severally delivered to and accepted by the Vendee, subject to payment by the Assignee to the Builder of the amount required to be paid pursuant to Section 4 hereof and subject to the payment to the Builder by the Vendee of the amount required to be paid pursuant to subparagraph (a) of the third paragraph of Article 4 of the CSA;

(b) all the right, title and interest of the Builder in and to the CSA (except the right to construct

and deliver the Equipment and the right to receive the payments specified in subparagraph (a) of the third paragraph of Article 4 thereof and reimbursement for taxes paid or incurred by the Builder as provided in Article 6 thereof), and except as aforesaid in and to any and all amounts which may be or become due or owing to the Builder under the CSA on account of the indebtedness in respect of the Purchase Price (as defined in the CSA) of the Equipment and interest thereon, and in and to any other sums becoming due from the Vendee under the CSA, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) of this paragraph, all the Builder's rights, titles, powers, privileges and remedies under the CSA;

without any recourse hereunder, however, against the Builder for or on account of the failure of the Vendee to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the CSA; provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Builder to deliver the Equipment in accordance with the CSA or with respect to its warranties and agreements referred to in Article 13 of the CSA or relieve the Vendee from its obligations to the Builder contained in Articles 2, 3, 4, 6 and 13 of the CSA, it being agreed that, notwithstanding this Agreement, or any subsequent assignment pursuant to the provisions of Article 14 of the CSA, all obligations of the Builder to the Vendee with respect to the construction, delivery, sale, patent indemnification and warranty of the Equipment shall be and remain enforceable by the Vendee, its successors and assigns, against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Builder hereby authorizes and empowers the Assignee in the Assignee's own name, or in the name of the Assignee's nominee, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Vendee with the terms and agreements on its part to be performed under the CSA, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 2. The Builder agrees that it shall construct the Equipment in full accordance with the CSA and will

deliver the same upon completion to the Vendee in accordance with the provisions of the CSA; and that, notwithstanding this Assignment, it will perform and fully comply with each of and all the covenants and conditions of the CSA set forth to be performed and complied with by the Builder. The Builder further agrees that it will warrant to the Assignee and the Vendee that at the time of delivery of each unit of Equipment under the CSA it had legal title to such unit and good and lawful right to sell such unit and that such unit was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendee under the CSA, the rights of the Assignee under this Assignment and the rights of the Lessee under the Lease; and the Builder further agrees that it will defend such title to such unit against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Builder under the CSA; all subject, however, to the provisions of the CSA and the rights of the Vendee thereunder. The Builder will not deliver any of the Equipment to the Vendee under the CSA (i) until the CSA and the Lease have been duly filed with the Interstate Commerce Commission, (ii) until the Builder shall have been notified in writing by or on behalf of the Assignee that the conditions contained in Paragraph 7 of the Participation Agreement dated as of the date hereof (the "Participation Agreement") among the Assignee, the Lessee, the Beneficiary, the Vendee, the Builder and the Investors named in Schedule A thereto have been met (the Builder and its counsel being entitled to rely on advice from special counsel for the Assignee, Messrs. Cravath, Swaine & Moore, that such filing has occurred and such conditions have been met), (iii) until the Builder shall have been notified in writing by the Vendee that the conditions contained in Paragraph 8 of the Participation Agreement have been met or (iv) if the Builder has been notified in writing by the Assignee or the Vendee of the commencement of any proceedings specified in clause (c) of Article 15 of the CSA or of the occurrence of any event of default (as described in said Article 15) or event which, with the lapse of time and/or demand, could constitute such an event of default; provided, however, that the Builder shall not refrain from delivering the Equipment solely due to any such default which shall have been remedied.

SECTION 3. Except in cases of articles or materials specified by the Lessee and not manufactured by the Builder and in cases of designs, systems, processes, formulae

or combinations specified by the Lessee and not developed or purported to be developed by the Builder, the Builder agrees, except as otherwise specifically provided in Article 13 of the CSA, to indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any Canadian or United States patent. The Assignee will give prompt notice to the Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give the Builder the right, at the Builder's expense, to compromise, settle or defend against such claim and every reasonable assistance in so compromising, settling or defending shall be rendered by the Assignee. The Builder shall not in any event be liable for special, indirect, incidental or consequential damages arising out of or resulting from infringement of patents. The Builder agrees that any amounts payable to it by the Vendee or the Lessee with respect to the Equipment, whether pursuant to the CSA or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge or security interest upon the Equipment or any unit thereof.

SECTION 4. The Assignee, on each Closing Date fixed as provided in Article 4 of the CSA with respect to a Group (as defined in said Article 4) of the Equipment, shall pay to the Builder by bank wire transfer at the Bank of Montreal, 119 rue St. Jacques, Montreal, Quebec, Canada, for the account of Marine Industrie Limitee in Canadian dollars in immediately available funds an amount equal to the Purchase Price thereof as specified in the Builder's invoice less the amount required to be paid by the Vendee pursuant to subparagraph (a) of the third paragraph of Article 4 of the CSA, provided that there shall have been delivered to the Assignee on or prior to such Closing Date, the following documents, in form and substance satisfactory to it and to its special counsel, Messrs. Cravath, Swaine & Moore, in such number of counterparts as may be reasonably requested by said special counsel:

(a) an instrument or instruments from the Builder to the Assignee transferring to the Assignee the security interest of the Builder in such units, warranting to the Assignee and to the Vendee that, at the time of

delivery of such units under the CSA, the Builder had legal title to such units and good and lawful right to sell such units and such units were free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendee under the CSA, the Assignee under this Assignment and the rights of the Lessee under the Lease, and covenanting to defend such title to such units against demands of all persons whomsoever based on claims originating prior to the delivery of such units by the Builder under the CSA;

(b) a Certificate or Certificates of Acceptance with respect to the units of the Equipment in such Group as contemplated by Article 3 of the CSA;

(c) an invoice of the Builder for the units of the Equipment in such Group;

(d) an opinion of counsel for the Builder (which may be the general counsel of the Builder), dated as of such Closing Date, addressed to the Assignee and the Vendee, to the effect that the aforesaid instrument or instruments have been duly authorized, executed and delivered by the Builder and transfer all right, title and interest of the Builder in and to the units of the Equipment in such Group, free from all claims, liens, security interests and other encumbrances (other than those created by the CSA and this Assignment and the rights of the Lessee under the Lease) arising from, through or under the Builder; and

(e) an acknowledgment from the Builder of any payment (other than the payment being made by the Assignee pursuant to the first paragraph of this Section 4) required to be made on such Closing Date to the Builder and actually received by the Builder with respect to the Equipment, unless such payment is made by the Assignee with funds furnished to it for that purpose by the Vendee.

The obligation of the Assignee to make the foregoing payments to the Builder shall be limited to the amounts on deposit with the Assignee pursuant to the Participation Agreement available for that purpose thereunder. In the event that the Assignee shall not make any such payment, the

Assignee shall reassign to the Builder, without recourse to the Assignee unless the Assignee shall have failed to make such payment notwithstanding its receipt of the documents specified in this Section in satisfactory form as aforesaid, all right, title and interest of the Assignee in and to the units of the Equipment with respect to which payment has not been made by the Assignee.

SECTION 5. Subject to the provisions of Article 14 of the CSA, the Assignee may assign all or any of its rights under the CSA, including the right to receive any payments due or to become due to it from the Vendee thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, and upon giving the written notice required in Article 14 of the CSA, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. The Builder hereby:

(a) represents and warrants to the Assignee, the Vendee and their successors and assigns, that the CSA was duly authorized by it and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery by the Vendee, the CSA is an existing agreement binding upon the Builder in accordance with its terms and that, insofar as the Builder is concerned, it is now in force without amendment thereto;

(b) agrees that it will from time to time, at the request of the Assignee or its successors or assigns (provided the party making such request pays its expenses including, without limitation, counsel fees), make, execute and deliver all such further instruments of assignment, transfer and assurance and do all such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be; and

(c) agrees that, subsequent to payment of all the

sums due it hereunder and under the CSA upon request of the Assignee, its successors and assigns, it will (provided the Assignee pays its expenses including, without limitation, counsel fees) execute any and all instruments which may be necessary or proper in order to discharge of record the CSA or any other instrument evidencing any interest of the Builder therein or in the Equipment.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Connecticut; provided, however, that the parties shall be entitled to all the rights arising out of the filing, recording or depositing of the CSA and this Assignment, and any rights arising out of the marking on the units of Equipment.

SECTION 8. Although this Assignment is dated for convenience as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

SECTION 9. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officials, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

MARINE INDUSTRIE LIMITEE,

by

[Corporate Seal]

Attest:

E. Schoning

[Signature]
[Signature]

FIRST SECURITY BANK OF UTAH,
NATIONAL ASSOCIATION, not in its
individual capacity but solely
as Agent,

by

Authorized Officer

[Seal]

Attest:

Authorized Officer

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment dated as of December 1, 1978, is hereby acknowledged as of December 1, 1978.

THE CONNECTICUT BANK AND TRUST
COMPANY, as Trustee,

by

Authorized Officer

PROVINCE OF QUEBEC,)
) ss.:
CITY OF MONTREAL,)

On this 19th day of JANUARY 1979, before me personally appeared DONALD GUEVREMONT, to me personally known, who being by me duly sworn, says that ~~he is~~ ^{THEY ARE RESPECTIVELY} of MARINE INDUSTRIE LIMITEE, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and ~~he~~ ^{THEY} acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Carol B. Hottel
Commissioner for Oaths
District of Montreal
43,462

My Commission expires
MAY 30th, 1983

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this day of 197 , before me personally appeared , to me personally known, who being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, that one of the seals affixed to the foregoing instrument is the seal of said national bank, that said instrument was signed and sealed on behalf of said national bank by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national bank.

Notary Public

[Notarial Seal]

My commission expires

AGREEMENT AND ASSIGNMENT

Dated as of December 1, 1978

between

MARINE INDUSTRIE LIMITEE,

and

FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION,
not in its individual capacity but solely as Agent

AGREEMENT AND ASSIGNMENT dated as of December 1, 1978, between each of MARINE INDUSTRIE LIMITEE (the "Builder") and FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, not in its individual capacity but solely as Agent under a Participation Agreement dated as of the date hereof (the "Assignee").

WHEREAS the Builder and THE CONNECTICUT BANK AND TRUST COMPANY, not in its individual capacity but solely as Trustee (the "Vendee"), under a Trust Agreement dated as of the date hereof with Bankers Trust Company (the "Beneficiary"), have entered into a Conditional Sale Agreement dated as of the date hereof (the "CSA") covering the construction, sale and delivery, on the conditions therein set forth, by the Builder and the purchase by the Vendee of the railroad equipment described in Annex B to the CSA (the "Equipment"); and

WHEREAS the Vendee and INTERNATIONAL MINERALS & CHEMICAL CORPORATION (the "Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease") providing for the lease to the Lessee of the Equipment;

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (this "Assignment") WITNESSETH: that in consideration of the sum of \$1 and other good and valuable consideration paid by the Assignee to the Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained, the parties hereto agree as follows:

SECTION 1. The Builder hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) all the right, title and interest of the Builder in and to each unit of the Equipment when and as severally delivered to and accepted by the Vendee, subject to payment by the Assignee to the Builder of the amount required to be paid pursuant to Section 4 hereof and subject to the payment to the Builder by the Vendee of the amount required to be paid pursuant to subparagraph (a) of the third paragraph of Article 4 of the CSA;

(b) all the right, title and interest of the Builder in and to the CSA (except the right to construct

and deliver the Equipment and the right to receive the payments specified in subparagraph (a) of the third paragraph of Article 4 thereof and reimbursement for taxes paid or incurred by the Builder as provided in Article 6 thereof), and except as aforesaid in and to any and all amounts which may be or become due or owing to the Builder under the CSA on account of the indebtedness in respect of the Purchase Price (as defined in the CSA) of the Equipment and interest thereon, and in and to any other sums becoming due from the Vendee under the CSA, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) of this paragraph, all the Builder's rights, titles, powers, privileges and remedies under the CSA;

without any recourse hereunder, however, against the Builder for or on account of the failure of the Vendee to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the CSA; provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Builder to deliver the Equipment in accordance with the CSA or with respect to its warranties and agreements referred to in Article 13 of the CSA or relieve the Vendee from its obligations to the Builder contained in Articles 2, 3, 4, 6 and 13 of the CSA, it being agreed that, notwithstanding this Agreement, or any subsequent assignment pursuant to the provisions of Article 14 of the CSA, all obligations of the Builder to the Vendee with respect to the construction, delivery, sale, patent indemnification and warranty of the Equipment shall be and remain enforceable by the Vendee, its successors and assigns, against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Builder hereby authorizes and empowers the Assignee in the Assignee's own name, or in the name of the Assignee's nominee, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Vendee with the terms and agreements on its part to be performed under the CSA, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 2. The Builder agrees that it shall construct the Equipment in full accordance with the CSA and will

deliver the same upon completion to the Vendee in accordance with the provisions of the CSA; and that, notwithstanding this Assignment, it will perform and fully comply with each of and all the covenants and conditions of the CSA set forth to be performed and complied with by the Builder. The Builder further agrees that it will warrant to the Assignee and the Vendee that at the time of delivery of each unit of Equipment under the CSA it had legal title to such unit and good and lawful right to sell such unit and that such unit was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendee under the CSA, the rights of the Assignee under this Assignment and the rights of the Lessee under the Lease; and the Builder further agrees that it will defend such title to such unit against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Builder under the CSA; all subject, however, to the provisions of the CSA and the rights of the Vendee thereunder. The Builder will not deliver any of the Equipment to the Vendee under the CSA (i) until the CSA and the Lease have been duly filed with the Interstate Commerce Commission, (ii) until the Builder shall have been notified in writing by or on behalf of the Assignee that the conditions contained in Paragraph 7 of the Participation Agreement dated as of the date hereof (the "Participation Agreement") among the Assignee, the Lessee, the Beneficiary, the Vendee, the Builder and the Investors named in Schedule A thereto have been met (the Builder and its counsel being entitled to rely on advice from special counsel for the Assignee, Messrs. Cravath, Swaine & Moore, that such filing has occurred and such conditions have been met), (iii) until the Builder shall have been notified in writing by the Vendee that the conditions contained in Paragraph 8 of the Participation Agreement have been met or (iv) if the Builder has been notified in writing by the Assignee or the Vendee of the commencement of any proceedings specified in clause (c) of Article 15 of the CSA or of the occurrence of any event of default (as described in said Article 15) or event which, with the lapse of time and/or demand, could constitute such an event of default; provided, however, that the Builder shall not refrain from delivering the Equipment solely due to any such default which shall have been remedied.

SECTION 3. Except in cases of articles or materials specified by the Lessee and not manufactured by the Builder and in cases of designs, systems, processes, formulae

or combinations specified by the Lessee and not developed or purported to be developed by the Builder, the Builder agrees, except as otherwise specifically provided in Article 13 of the CSA, to indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any Canadian or United States patent. The Assignee will give prompt notice to the Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give the Builder the right, at the Builder's expense, to compromise, settle or defend against such claim and every reasonable assistance in so compromising, settling or defending shall be rendered by the Assignee. The Builder shall not in any event be liable for special, indirect, incidental or consequential damages arising out of or resulting from infringement of patents. The Builder agrees that any amounts payable to it by the Vendee or the Lessee with respect to the Equipment, whether pursuant to the CSA or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge or security interest upon the Equipment or any unit thereof.

SECTION 4. The Assignee, on each Closing Date fixed as provided in Article 4 of the CSA with respect to a Group (as defined in said Article 4) of the Equipment, shall pay to the Builder by bank wire transfer at the Bank of Montreal, 119 rue St. Jacques, Montreal, Quebec, Canada, for the account of Marine Industrie Limitee in Canadian dollars in immediately available funds an amount equal to the Purchase Price thereof as specified in the Builder's invoice less the amount required to be paid by the Vendee pursuant to subparagraph (a) of the third paragraph of Article 4 of the CSA, provided that there shall have been delivered to the Assignee on or prior to such Closing Date, the following documents, in form and substance satisfactory to it and to its special counsel, Messrs. Cravath, Swaine & Moore, in such number of counterparts as may be reasonably requested by said special counsel:

(a) an instrument or instruments from the Builder to the Assignee transferring to the Assignee the security interest of the Builder in such units, warranting to the Assignee and to the Vendee that, at the time of

delivery of such units under the CSA, the Builder had legal title to such units and good and lawful right to sell such units and such units were free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendee under the CSA, the Assignee under this Assignment and the rights of the Lessee under the Lease, and covenanting to defend such title to such units against demands of all persons whomsoever based on claims originating prior to the delivery of such units by the Builder under the CSA;

(b) a Certificate or Certificates of Acceptance with respect to the units of the Equipment in such Group as contemplated by Article 3 of the CSA;

(c) an invoice of the Builder for the units of the Equipment in such Group;

(d) an opinion of counsel for the Builder (which may be the general counsel of the Builder), dated as of such Closing Date, addressed to the Assignee and the Vendee, to the effect that the aforesaid instrument or instruments have been duly authorized, executed and delivered by the Builder and transfer all right, title and interest of the Builder in and to the units of the Equipment in such Group, free from all claims, liens, security interests and other encumbrances (other than those created by the CSA and this Assignment and the rights of the Lessee under the Lease) arising from, through or under the Builder; and

(e) an acknowledgment from the Builder of any payment (other than the payment being made by the Assignee pursuant to the first paragraph of this Section 4) required to be made on such Closing Date to the Builder and actually received by the Builder with respect to the Equipment, unless such payment is made by the Assignee with funds furnished to it for that purpose by the Vendee.

The obligation of the Assignee to make the foregoing payments to the Builder shall be limited to the amounts on deposit with the Assignee pursuant to the Participation Agreement available for that purpose thereunder. In the event that the Assignee shall not make any such payment, the

Assignee shall reassign to the Builder, without recourse to the Assignee unless the Assignee shall have failed to make such payment notwithstanding its receipt of the documents specified in this Section in satisfactory form as aforesaid, all right, title and interest of the Assignee in and to the units of the Equipment with respect to which payment has not been made by the Assignee.

SECTION 5. Subject to the provisions of Article 14 of the CSA, the Assignee may assign all or any of its rights under the CSA, including the right to receive any payments due or to become due to it from the Vendee thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, and upon giving the written notice required in Article 14 of the CSA, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. The Builder hereby:

(a) represents and warrants to the Assignee, the Vendee and their successors and assigns, that the CSA was duly authorized by it and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery by the Vendee, the CSA is an existing agreement binding upon the Builder in accordance with its terms and that, insofar as the Builder is concerned, it is now in force without amendment thereto;

(b) agrees that it will from time to time, at the request of the Assignee or its successors or assigns (provided the party making such request pays its expenses including, without limitation, counsel fees), make, execute and deliver all such further instruments of assignment, transfer and assurance and do all such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be; and

(c) agrees that, subsequent to payment of all the

sums due it hereunder and under the CSA upon request of the Assignee, its successors and assigns, it will (provided the Assignee pays its expenses including, without limitation, counsel fees) execute any and all instruments which may be necessary or proper in order to discharge of record the CSA or any other instrument evidencing any interest of the Builder therein or in the Equipment.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Connecticut; provided, however, that the parties shall be entitled to all the rights arising out of the filing, recording or depositing of the CSA and this Assignment, and any rights arising out of the marking on the units of Equipment.

SECTION 8. Although this Assignment is dated for convenience as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

SECTION 9. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officials, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

MARINE INDUSTRIE LIMITEE,

by _____

[Corporate Seal]

Attest:

FIRST SECURITY BANK OF UTAH,
NATIONAL ASSOCIATION, not in its
individual capacity but solely
as Agent,

by

Authorized Officer

[Seal]

~~Attest:~~

~~Authorized Officer~~

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment dated as of December 1, 1978, is hereby acknowledged as of December 1, 1978.

THE CONNECTICUT BANK AND TRUST
COMPANY, as Trustee,

by

Authorized Officer

PROVINCE OF QUEBEC,)
) ss.:
CITY OF ,)

On this day of 197 , before me personally appeared , to me personally known, who being by me duly sworn, says that he is a of MARINE INDUSTRIE LIMITEE, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Commissioner for Oaths
District

My Commission expires

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this 19 day of January 1979, before me personally appeared J. TRACY WALKER, to me personally known, who being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, that one of the seals affixed to the foregoing instrument is the seal of said national bank, that said instrument was signed and sealed on behalf of said national bank by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national bank.

Verna L. DeCora
Notary Public

My Commission Expires November 15, 1981

[Notarial Seal]

My commission expires

AGREEMENT AND ASSIGNMENT

Dated as of December 1, 1978

between

MARINE INDUSTRIE LIMITEE,

and

FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION,
not in its individual capacity but solely as Agent

AGREEMENT AND ASSIGNMENT dated as of December 1, 1978, between each of MARINE INDUSTRIE LIMITEE (the "Builder") and FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, not in its individual capacity but solely as Agent under a Participation Agreement dated as of the date hereof (the "Assignee").

WHEREAS the Builder and THE CONNECTICUT BANK AND TRUST COMPANY, not in its individual capacity but solely as Trustee (the "Vendee"), under a Trust Agreement dated as of the date hereof with Bankers Trust Company (the "Beneficiary"), have entered into a Conditional Sale Agreement dated as of the date hereof (the "CSA") covering the construction, sale and delivery, on the conditions therein set forth, by the Builder and the purchase by the Vendee of the railroad equipment described in Annex B to the CSA (the "Equipment"); and

WHEREAS the Vendee and INTERNATIONAL MINERALS & CHEMICAL CORPORATION (the "Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease") providing for the lease to the Lessee of the Equipment;

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (this "Assignment") WITNESSETH: that in consideration of the sum of \$1 and other good and valuable consideration paid by the Assignee to the Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained, the parties hereto agree as follows:

SECTION 1. The Builder hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) all the right, title and interest of the Builder in and to each unit of the Equipment when and as severally delivered to and accepted by the Vendee, subject to payment by the Assignee to the Builder of the amount required to be paid pursuant to Section 4 hereof and subject to the payment to the Builder by the Vendee of the amount required to be paid pursuant to subparagraph (a) of the third paragraph of Article 4 of the CSA;

(b) all the right, title and interest of the Builder in and to the CSA (except the right to construct

and deliver the Equipment and the right to receive the payments specified in subparagraph (a) of the third paragraph of Article 4 thereof and reimbursement for taxes paid or incurred by the Builder as provided in Article 6 thereof), and except as aforesaid in and to any and all amounts which may be or become due or owing to the Builder under the CSA on account of the indebtedness in respect of the Purchase Price (as defined in the CSA) of the Equipment and interest thereon, and in and to any other sums becoming due from the Vendee under the CSA, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) of this paragraph, all the Builder's rights, titles, powers, privileges and remedies under the CSA;

without any recourse hereunder, however, against the Builder for or on account of the failure of the Vendee to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the CSA; provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Builder to deliver the Equipment in accordance with the CSA or with respect to its warranties and agreements referred to in Article 13 of the CSA or relieve the Vendee from its obligations to the Builder contained in Articles 2, 3, 4, 6 and 13 of the CSA, it being agreed that, notwithstanding this Agreement, or any subsequent assignment pursuant to the provisions of Article 14 of the CSA, all obligations of the Builder to the Vendee with respect to the construction, delivery, sale, patent indemnification and warranty of the Equipment shall be and remain enforceable by the Vendee, its successors and assigns, against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Builder hereby authorizes and empowers the Assignee in the Assignee's own name, or in the name of the Assignee's nominee, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Vendee with the terms and agreements on its part to be performed under the CSA, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 2. The Builder agrees that it shall construct the Equipment in full accordance with the CSA and will

deliver the same upon completion to the Vendee in accordance with the provisions of the CSA; and that, notwithstanding this Assignment, it will perform and fully comply with each of and all the covenants and conditions of the CSA set forth to be performed and complied with by the Builder. The Builder further agrees that it will warrant to the Assignee and the Vendee that at the time of delivery of each unit of Equipment under the CSA it had legal title to such unit and good and lawful right to sell such unit and that such unit was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendee under the CSA, the rights of the Assignee under this Assignment and the rights of the Lessee under the Lease; and the Builder further agrees that it will defend such title to such unit against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Builder under the CSA; all subject, however, to the provisions of the CSA and the rights of the Vendee thereunder. The Builder will not deliver any of the Equipment to the Vendee under the CSA (i) until the CSA and the Lease have been duly filed with the Interstate Commerce Commission, (ii) until the Builder shall have been notified in writing by or on behalf of the Assignee that the conditions contained in Paragraph 7 of the Participation Agreement dated as of the date hereof (the "Participation Agreement") among the Assignee, the Lessee, the Beneficiary, the Vendee, the Builder and the Investors named in Schedule A thereto have been met (the Builder and its counsel being entitled to rely on advice from special counsel for the Assignee, Messrs. Cravath, Swaine & Moore, that such filing has occurred and such conditions have been met), (iii) until the Builder shall have been notified in writing by the Vendee that the conditions contained in Paragraph 8 of the Participation Agreement have been met or (iv) if the Builder has been notified in writing by the Assignee or the Vendee of the commencement of any proceedings specified in clause (c) of Article 15 of the CSA or of the occurrence of any event of default (as described in said Article 15) or event which, with the lapse of time and/or demand, could constitute such an event of default; provided, however, that the Builder shall not refrain from delivering the Equipment solely due to any such default which shall have been remedied.

SECTION 3. Except in cases of articles or materials specified by the Lessee and not manufactured by the Builder and in cases of designs, systems, processes, formulae

or combinations specified by the Lessee and not developed or purported to be developed by the Builder, the Builder agrees, except as otherwise specifically provided in Article 13 of the CSA, to indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any Canadian or United States patent. The Assignee will give prompt notice to the Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give the Builder the right, at the Builder's expense, to compromise, settle or defend against such claim and every reasonable assistance in so compromising, settling or defending shall be rendered by the Assignee. The Builder shall not in any event be liable for special, indirect, incidental or consequential damages arising out of or resulting from infringement of patents. The Builder agrees that any amounts payable to it by the Vendee or the Lessee with respect to the Equipment, whether pursuant to the CSA or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge or security interest upon the Equipment or any unit thereof.

SECTION 4. The Assignee, on each Closing Date fixed as provided in Article 4 of the CSA with respect to a Group (as defined in said Article 4) of the Equipment, shall pay to the Builder by bank wire transfer at the Bank of Montreal, 119 rue St. Jacques, Montreal, Quebec, Canada, for the account of Marine Industrie Limitee in Canadian dollars in immediately available funds an amount equal to the Purchase Price thereof as specified in the Builder's invoice less the amount required to be paid by the Vendee pursuant to subparagraph (a) of the third paragraph of Article 4 of the CSA, provided that there shall have been delivered to the Assignee on or prior to such Closing Date, the following documents, in form and substance satisfactory to it and to its special counsel, Messrs. Cravath, Swaine & Moore, in such number of counterparts as may be reasonably requested by said special counsel:

(a) an instrument or instruments from the Builder to the Assignee transferring to the Assignee the security interest of the Builder in such units, warranting to the Assignee and to the Vendee that, at the time of

delivery of such units under the CSA, the Builder had legal title to such units and good and lawful right to sell such units and such units were free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendee under the CSA, the Assignee under this Assignment and the rights of the Lessee under the Lease, and covenanting to defend such title to such units against demands of all persons whomsoever based on claims originating prior to the delivery of such units by the Builder under the CSA;

(b) a Certificate or Certificates of Acceptance with respect to the units of the Equipment in such Group as contemplated by Article 3 of the CSA;

(c) an invoice of the Builder for the units of the Equipment in such Group;

(d) an opinion of counsel for the Builder (which may be the general counsel of the Builder), dated as of such Closing Date, addressed to the Assignee and the Vendee, to the effect that the aforesaid instrument or instruments have been duly authorized, executed and delivered by the Builder and transfer all right, title and interest of the Builder in and to the units of the Equipment in such Group, free from all claims, liens, security interests and other encumbrances (other than those created by the CSA and this Assignment and the rights of the Lessee under the Lease) arising from, through or under the Builder; and

(e) an acknowledgment from the Builder of any payment (other than the payment being made by the Assignee pursuant to the first paragraph of this Section 4) required to be made on such Closing Date to the Builder and actually received by the Builder with respect to the Equipment, unless such payment is made by the Assignee with funds furnished to it for that purpose by the Vendee.

The obligation of the Assignee to make the foregoing payments to the Builder shall be limited to the amounts on deposit with the Assignee pursuant to the Participation Agreement available for that purpose thereunder. In the event that the Assignee shall not make any such payment, the

Assignee shall reassign to the Builder, without recourse to the Assignee unless the Assignee shall have failed to make such payment notwithstanding its receipt of the documents specified in this Section in satisfactory form as aforesaid, all right, title and interest of the Assignee in and to the units of the Equipment with respect to which payment has not been made by the Assignee.

SECTION 5. Subject to the provisions of Article 14 of the CSA, the Assignee may assign all or any of its rights under the CSA, including the right to receive any payments due or to become due to it from the Vendee thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, and upon giving the written notice required in Article 14 of the CSA, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. The Builder hereby:

(a) represents and warrants to the Assignee, the Vendee and their successors and assigns, that the CSA was duly authorized by it and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery by the Vendee, the CSA is an existing agreement binding upon the Builder in accordance with its terms and that, insofar as the Builder is concerned, it is now in force without amendment thereto;

(b) agrees that it will from time to time, at the request of the Assignee or its successors or assigns (provided the party making such request pays its expenses including, without limitation, counsel fees), make, execute and deliver all such further instruments of assignment, transfer and assurance and do all such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be; and

(c) agrees that, subsequent to payment of all the

sums due it hereunder and under the CSA upon request of the Assignee, its successors and assigns, it will (provided the Assignee pays its expenses including, without limitation, counsel fees) execute any and all instruments which may be necessary or proper in order to discharge of record the CSA or any other instrument evidencing any interest of the Builder therein or in the Equipment.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Connecticut; provided, however, that the parties shall be entitled to all the rights arising out of the filing, recording or depositing of the CSA and this Assignment, and any rights arising out of the marking on the units of Equipment.

SECTION 8. Although this Assignment is dated for convenience as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

SECTION 9. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officials, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

MARINE INDUSTRIE LIMITEE,

by

[Corporate Seal]

Attest:

FIRST SECURITY BANK OF UTAH,
NATIONAL ASSOCIATION, not in its
individual capacity but solely
as Agent,

by

Authorized Officer

[Seal]

Attest:

Authorized Officer

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment dated as of December 1, 1978, is hereby acknowledged as of December 1, 1978.

THE CONNECTICUT BANK AND TRUST
COMPANY, as Trustee,

by



Authorized Officer

PROVINCE OF QUEBEC,)
) ss.:
CITY OF ,)

On this day of 197 , before me personally appeared , to me personally known, who being by me duly sworn, says that he is a of MARINE INDUSTRIE LIMITEE, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Commissioner for Oaths
District

My Commission expires

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this day of 197 , before me personally appeared , to me personally known, who being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, that one of the seals affixed to the foregoing instrument is the seal of said national bank, that said instrument was signed and sealed on behalf of said national bank by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national bank.

Notary Public

[Notarial Seal]

My commission expires